

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARRON THOMAS SIMMONS,
Plaintiff,
v.
SHASTA COUNTY DISTRICT
ATTORNEY, et al.,
Defendants.

No. 2:21-cv-0242 KJM AC P

ORDER


Plaintiff, a country prisoner proceeding pro se, has filed a motion to recall and reduce his sentence under Proposition 47. ECF No. 5. This federal court does not have the authority to grant the requested relief, which is an exclusively state law remedy. Furthermore, to the extent that the motion may be construed as an attempt to convert the complaint into a habeas petition challenging the denial of a motion to recall by the state court, the court declines to do so for the reasons set forth in the February 19, 2021 Findings and Recommendations, ECF No. 6 at 5-6, and because the claim is not cognizable in federal habeas, Estelle v. McGuire, 502 U.S. 62, 67-68 (1991) (“[I]t is not the province of a federal habeas court to reexamine state-court determinations on state-law questions.”); Middleton v. Cupp, 768 F.2d 1083, 1085 (9th Cir. 1985) (habeas relief “is unavailable for alleged error in the interpretation or application of state law”).

The undersigned has already recommended that this case be dismissed without leave to amend. ECF No. 6. If the district judge adopts the recommendation, the instant motion will be

1 moot. At this time, the motion will be denied without prejudice. Should the district judge decline
2 to adopt the pending recommendation, plaintiff may renew his motion. If plaintiff does so, the
3 undersigned will recommend denial of the motion for preliminary relief for the reasons stated
4 above.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to recall and reduce his
6 sentence, ECF No. 5, is DENIED without prejudice.

7 DATED: March 3, 2021

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9 ALLISON CLAIRE
10 UNITED STATES MAGISTRATE JUDGE
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